REMARKS/ARGUMENTS

Entry of this amendment and reconsideration of the present application, as amended, are respectfully requested.

Claims 1-3, 5-24, 26-37, 39-44, 46, 47 and 49-58 are pending in this application. Claims 4, 25, 38, 45 and 48 are cancelled. Claim 26 is amended herein and the change to this claim does not relate to patentability.

Claims 44, 46, 47, 49 and 51-56 were rejected under 35 U.S.C. §102(e) as being anticipated by Mitschelen et al. (U.S. Pat. No. 6,042,145). The Examiner states that there is no evidence of the embodiment with the headrest sensor being disclosed in any of applicant's applications prior to the filing date of Mitschelen et al.

The Examiner's rejection is respectfully traversed on the grounds that Mitschelen et al. should not be available as prior art against the patentability of at least independent claim 44 because the claimed embodiment is believed to be set forth in an application which predates Mitschelen et al.

Claim 44 is directed to a seat adjustment system including a seat having a headrest and which is moved to an optimum adjusted seat position by power means based on one or more morphological characteristics of the occupant. Measurement means are provided to measure the morphological characteristic(s) of the occupant and include a first measurement system attached to or incorporated within the headrest for measuring height of the occupant from an upper surface of a bottom portion of the seat such that the height of the occupant is one of the morphological characteristics. A processor includes computational means for determining an optimum adjusted seat position based on the morphological characteristic(s) and generates a signal corresponding to the optimum adjusted seat position which is based on a signal from the measurement means representative of the measured morphological characteristic(s). The seat is thus adjusted via the power means based on the measurements of the morphological characteristics made by the measurement means. A rough diagram of this embodiment is shown in FIG. 17A.

The features of claim 44 are described in U.S. patent application Ser. No. 08/474,783 filed June 7, 1997, and from which priority under 35 U.S.C. §120 is claimed for the instant application. For example, Fig. 17A is essentially identical to Fig. 10A of the '783 application and further Figs. 8 and 9 of the instant application are essentially identical to Figs. 1 and 2 of the '783 application, respectively. The description of these drawings is also similar in both applications, as well as in the intervening applications. The other conditions for obtaining the benefit of a filing date under 35 U.S.C. §120, e.g., a common inventor and reference to the earlier application, are also satisfied in this case.

It is thus respectfully submitted that claim 44 and claims 46, 47, 49 and 51-56 which depend therefrom are entitled to the benefit of the filing date of the '783 application, i.e., June 7, 1995, which predates the filing date of Mitschelen et al., December 12, 1997, so that Mitschelen et al. should not be available as prior art against the patentability of these claims.

Accordingly, it is respectfully submitted that the Examiner's rejection of claims 44, 46, 47, 49 and 51-56 under 35 U.S.C. §102(e) as being anticipated by Mitschelen et al. has been overcome and should be removed.

Claims 1-3, 5-24, 26-37, 39-44, 46, 47 and 49-58 were rejected under 35 U.S.C. §102(e) as being anticipated by Fu (U.S. Pat. No. 5,848,661).

The Examiner's rejection is respectfully traversed on the grounds that Fu does not disclose all of the features of independent claims 1, 15, 26 and 37 and because Fu should not be available as prior against the patentability of at least claim 44.

Fu describes a system for controlling deployment of an occupant restraint device wherein a sensor 42 is arranged in the seat back cushion 16 and a sensor 44 is arranged in the bottom seat cushion 18. Sensors 42, 44 generate output signals in response to pressure caused by an occupant seated in the vehicle seat 11. Depending on the type of occupant in the vehicle seat 11, none, one or both sensors 42, 44 will provide output signals (see Table 2 in column 7). A controller 24 then determines whether to deploy an airbag based on the presence or absence of output signals from the sensors 42, 44. Separate and apart from this air bag deployment control mechanism is a headrest adjustment mechanism which adjusts the headrest to be close to the occupant's head (see Fig. 2).

In contrast to the embodiments of the invention set forth in independent claims 1 and 15, Fu does not disclose measuring a morphological characteristic of an occupant, obtaining a current position of a part of the seat on which the occupant is situated and controlling an airbag based on the measured morphological characteristic and the position of the seat. Rather, in Fu, the air bag is controlled based solely on the presence or absence of pressure on the sensors 42, 44 and there is no consideration of the morphology of the occupant or the position of the seat.

In contrast to the embodiment of the invention set forth in independent claim 26, Fu does not disclose measuring a morphological characteristic of an occupant and controlling deployment of an air bag based on the measured morphological characteristic of the occupant and seat position. The position of the seat does not factor in any way into the determination of whether to deploy the airbag.

In contrast to the embodiment of the invention set forth in independent claim 37, Fu does not disclose controlling actuation of an airbag based on the position of a seat.

Since Fu does not disclose, teach or suggest all of the features set forth in independent claims 1, 15, 26 and 37, it cannot anticipate or render obvious the embodiments of the invention set forth in these claims or in claims which depend therefrom.

With respect to claims 44, 46, 47 and 49-58, as discussed above, it is respectfully submitted that the subject matter of these claims is disclosed in the '783 application. The '783 application was filed before Fu so that Fu is not available as prior art against the patentability of these claims.

In view of the arguments presented above, it is respectfully submitted that the Examiner's rejection of claims 1-3, 5-24, 26-37, 39-44, 46, 47 and 49-58 under 35 U.S.C. §102(e) as being anticipated by Fu has been overcome and should be removed.

Claims 1-3, 5, 9, 14, 15, 20-22, 26-28, 31, 35-37 and 39-43 were rejected under 35 U.S.C. §102(e) as being anticipated by Mattes et al. (U.S. Pat. No. 5,118,134).

The Examiner's rejection is respectfully traversed on the grounds that Mattes et al. does not disclose all of the features of independent claims 1, 15, 26 and 37.

Mattes et al. describes a system for activating a safety system in a vehicle including an acceleration sensor S1 and a position sensor S2 which determines the position of the occupant. The detected acceleration and occupant position are used to control the safety circuit (see Fig. 3).

In contrast to the embodiments of the invention set forth in independent claims 1 and 15, Mattes et al. does not disclose measuring a morphological characteristic of an occupant, obtaining a current position of a part of the seat on which the occupant is situated and controlling an airbag based on the measured morphological characteristic and the position of the seat. Rather, in Mattes et al., the air bag is controlled based solely on the acceleration and position of the occupant and there is no consideration of the morphology of the occupant or the position of the seat.

In contrast to the embodiment of the invention set forth in independent claim 26, Mattes et al. does not disclose measuring a morphological characteristic of an occupant and for controlling deployment of an air bag based on the measured morphological characteristic of the occupant and seat position. The position of the seat is not considered when determining airbag deployment but only the position of the occupant is considered, which is different than the position of the seat.

In contrast to the embodiment of the invention set forth in independent claim 37, Mattes et al. does not disclose controlling actuation of an airbag based on the position of a seat.

Since Mattes et al. does not disclose, teach or suggest all of the features set forth in independent claims 1, 15, 26 and 37, it cannot anticipate or render obvious the embodiments of the invention set forth in these claims or in claims which depend therefrom.

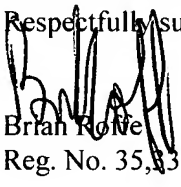
In view of the arguments presented above, it is respectfully submitted that the Examiner's rejection of claims 1-3, 5, 9, 14, 15, 20-22, 26-28, 31, 35-37 and 39-43 under 35 U.S.C. §102(b) as being anticipated by Mattes et al. has been overcome and should be removed.

In view of the arguments presented above, it is respectfully submitted that the Examiner's rejections of the claims have been overcome and should be removed and that the present application is now in condition for allowance.

If the Examiner should determine that minor changes to the claims to obviate informalities are necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

An early and favorable action on the merits upon entry and consideration of this amendment is earnestly solicited.

FOR THE APPLICANT
Respectfully submitted,



Brian Roffe
Reg. No. 35,336

Brian Roffe, Esq.
11 Sunrise Plaza, Suite 303
Valley Stream, New York 11580-6111
Tel.: (516) 256-5636
Fax: (516) 256-5638